IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.400 OF 2005

IN

A.O.NO.379 OF 2005

IN

NOTICE OF MOTION. 702 OF 2005

Rajan Babulal Mehta .. Applicant
vs.
The Municipal Corporation
& Others .. Respondents

Mr.S.R.Mishra for the Appellant.
Ms.Geeta Joglekar for the Respondents.

CORAM : A.S.OKA, J.
DATED : 2nd May, 2005.

P.C. :

1. Rule. Respondents waive service. In reply to the notice under Section 351 of the Mumbai Municipal Corporation Act, 1888, the Appellant had contended that the suit structure was in existence prior to the year 1985. It was contended that the structure needs to be protected in accordance with policy of the Respondents. It is also stated in the reply by the Appellant that the structure was situated in the] area which is declared as slum area.

2. Prima facie the learned trial Judge has committed an error by holding that there is no declaration granted under the Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act, 1971 in respect of the property bearing CTS No.39. The Notification which is placed on record shows that the entire CTS No.39 is declared as a slum. Thus, a case for grant of interim relief is made out. Till the final disposal of the appeal, the suit structure shall not be demolished on the basis of the impugned Notice Under section 351 of the Bombay Municipal Corporation Act, 1888 subject to the condition of the Appellant filing in this Court an undertaking in writing within a period of six weeks from today stating therein that he will not create any third party interests in respect of the suit structure and that he will not carry out any additions or alterations to the the suit structure without the permission of Respondent No.1.

3. If the undertaking is not filed within the stipulated time, the interim relief granted will stand vacated automatically.

4. Civil Application stands disposed of in above terms.

5. Parties to act on the authenticated copy of this order.

(A.S. Oka, J.)